

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

SHANE MARCUM,

Plaintiff,

v.

CIVIL ACTION NO. 2:20-cv-00394

BETSY JIVIDEN,
DONNIE AMES, and
JOHN FRAME,

Defendants.

MEMORANDUM OPINION AND ORDER

On June 11, 2020, the Plaintiff, proceeding *pro se*, filed his *Complaint* (Document 2) in this matter.

On September 15, 2020, the *Defendants Betsy Jividen, Donnie Ames and John Frame's Motion to Dismiss* (Document 16) was filed.

By *Administrative Order* (Document 5) entered on June 12, 2020, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On November 4, 2020, the Magistrate Judge submitted her *Proposed Findings and Recommendation* (Document 22) wherein it is recommended that the *Defendants Betsy Jividen, Donnie Ames and John Frame's Motion to Dismiss* (Document 16) be granted, the Plaintiff's *Complaint* (Document 2) be dismissed with prejudice, and that this action be closed and removed from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by February 26, 2021. The original deadline for filing objections to the *Proposed Findings and Recommendation* was November 23, 2020. Upon motion of the Plaintiff, the Court initially granted an

extension of that deadline until January 29, 2021 (Document 25), and granted a second extension resulting in a deadline of February 26, 2021 (Document 29). Subsequent motions by the Plaintiff for additional extensions were denied (Documents 31 & 33).

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation* and **ORDERS** that the *Defendants Betsy Jividen, Donnie Ames and John Frame's Motion to Dismiss* (Document 16) be **GRANTED**, the Plaintiff's *Complaint* (Document 2) be **DISMISSED WITH PREJUDICE**, and that this action be **CLOSED** and **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: March 8, 2021


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA